

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PDC04-026, Planned Development Rezoning from R-1-5 Residence District and “A” Agriculture District to A(PD) Planned Development Zoning District to allow up to 15 single family detached residences on an approximately 2.25-acre site. Subsequent permits include a Planned Development permit and Tentative Map. (C. & E. Echavarria and J. & J. Davis Trustee, Owners; Braddock and Logan, Developer). Council District: 5

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director’s intent to adopt a Mitigated Negative Declaration for the proposed project on **October 27, 2004**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 8, 2004** and ends on **October 27, 2004**.

A public hearing on the project described above is tentatively scheduled for October 27, 2004 at 6:00 p.m in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the East San Jose Carnegie Branch Library 1102 E. Santa Clara Street, San José, CA 95116 San Jose, and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2004.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Deanna Chow** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: October 8, 2004

Deputy



Scale: 1"=300'

Created on 03/23/04

File No: PDC04-026

District: 05

Quad No.: 68

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Story & Clayton Property

PROJECT FILE NUMBER: PDC04-026

PROJECT DESCRIPTION: Planned Development Rezoning from R-1-5 Residence District and "A" Agriculture District to A(PD) Planned Development Zoning District to allow up to 15 single family detached residences on an approximately 2.25-acre site. Subsequent permits include a Planned Development permit and Tentative Map.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Southwest corner of Story Road and Clayton Road; (647-07-061 through -063)

COUNCIL DISTRICT: 5

NAME OF APPLICANT: Braddock & Logan Group

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

4155 Blackhawk Plaza Circle, Suite 201, Danville, CA 94506; Attn: Jim Sullivan
925-736-4000

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AESTHETICS

- Trees and landscaping shall be provided.
- Downward-directed low-pressure sodium vapor street lights along the public streets shall be provided in order to prevent offsite light and glare.
- Public streets that are impacted by project construction activities shall be swept and washed down daily.
- Debris, rubbish and trash shall be cleared from any areas onsite that are visible from a public street.

AIR QUALITY

- The following construction practices shall be implemented during all phases of construction for the proposed project: 1) water all active construction areas at least twice daily or as often as needed to control dust emissions; 2) cover all trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard; 3) pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites; 4) sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust; 5) sweep public streets daily, or as often as needed, with water sweepers, to keep streets free of visible soil material; 6) hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more); 7) enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) sufficient to prevent visible airborne dust; 8) limit traffic speeds on unpaved roads to 15 mph; 9) install sandbags or other erosion control measures to prevent silt runoff to public roadways; and 10) replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES

All non-orchard trees that are to be removed shall be replaced at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees
- Trees greater than 18" diameter shall not be removed unless a Tree Removal Permit has been approved for the removal of such trees. Each tree greater than 18" diameter to be removed = four 24" box trees

The species and exact number of trees to be planted on the site will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. In the event the developed portion of the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented at the permit stage:

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the City's Environmental Principal Planner.

- A donation of \$300 per mitigation tree to San Jose Beautiful or Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

CULTURAL RESOURCES

- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- Should evidence of prehistoric cultural resources be discovered during construction, work in the immediate area of the find shall be stopped to allow adequate time for evaluation and mitigation, and a qualified professional archaeologist called in to make an evaluation; the material shall be evaluated; and if significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility shall be developed and implemented under the direction of the Environmental Principal Planner.

GEOLOGY AND SOILS

- A Certificate of Geologic Hazard Clearance shall be obtained from the Director of Public Works prior to any discretionary approval for all development in areas shown on the Geologic Hazards Ordinance map; and any Conditions of Clearance including, but not limited to, measures identified in the geologic evaluation, slope stabilization, surface and subsurface drainage control, offsite improvements, use restrictions, erosion control and/or maintenance guarantees for private improvements contained therein shall be implemented as specified.
- All earthwork and foundation plans and specifications shall comply with the recommendations of the geotechnical investigation by ENGEO Incorporated. The geotechnical report lists approximately 20 recommendations that are included in the project for site grading, foundations, slabs-on-grade, retaining walls, pavement design, drainage, and utility trenches, most of which reflect standard engineering practices that are not required to mitigate environmental impacts. The recommendations that specifically address potential geotechnical hazards found on the site are included below that specifically address potential geotechnical hazards found on the site are included below.
- Post-tensioned or conventionally-reinforced floating mat foundation systems shall be utilized in any residences subjected to expansive soils movement.
- Drainage shall be controlled and directed away from all structures and pavements.
- A City approved erosion control plan shall be developed and implemented with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and

permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences.

HAZARDS AND HAZARDOUS MATERIALS

- The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility.
- The structures to be removed shall be surveyed for the presence of asbestos-containing materials at the demolition permit stage; and if any suspect ACM are present, they shall be sampled prior to demolition in accordance with NESHAP guidelines, and all potentially friable ACM shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with NESHAP and Cal-OSHA requirements.
- The structures to be removed shall be surveyed for the presence of lead based paint at the demolition permit stage; and if any suspect LBP is present, it shall be sampled prior to demolition, and all potential LBP shall be removed prior to building demolition and disposed of by offsite burial at a permitted facility in accordance with EPA and OSHA requirements.

HYDROLOGY AND WATER QUALITY

- A Notice of Intent and a Storm Water Pollution Prevention Plan that addresses both construction and post-construction periods and specifies erosion and sediment control measures, waste disposal controls, maintenance responsibilities, and non-stormwater management controls, shall be submitted to the RWQCB and maintained onsite, respectively, to comply with the stormwater discharge requirements of the NPDES General Permit.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMP) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, fossil filters, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-stormwater management.
- All roof drains shall drain away from the building foundation and discharge into a landscaped area.

NOISE

- Construction operations shall be limited to the daytime hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite work within 500 feet of any residential unit so as to avoid the more sensitive evening, nighttime and weekend hours.
- All construction equipment, fixed or mobile, shall be in proper operating condition and fitted with standard factory silencing features; mufflers shall be used on all heavy construction equipment.

TRANSPORTATION/TRAFFIC

- Fees established by the Benefit Assessment District shall be paid to fund and construct the transportation improvements necessary for the development of the Evergreen Development Policy Area.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 27, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: October 8, 2004

Deputy

Adopted on: _____

Deputy

PUBLIC HEARING NOTICE

The Planning Commission and the City Council of the City of San José will consider a change in **ZONING** at a public hearing in accordance with Title 20 of the San José Municipal Code on:

Planning Commission Hearing

Wednesday, October 27, 2004

6:00 p.m.

City Council Chambers, Room 205

City Hall

801 North First Street

San Jose, CA 95110

City Council Hearing

Tuesday, November 09, 2004

7:00 p.m.

City Council Chambers, Room 205

City Hall

801 North First Street

San Jose, CA 95110

The project being considered is:

PDC04-026. Planned Development Rezoning from A Agricultural Zoning District and R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 15 single-family detached residences on a 2.25 gross acre site, located on the southwest corner of Story Road and Clayton Road (Davis Jim W And Janet M Trustee, Echavarria Ernest J And Cecilia, Echavarria Ernest, Owners; DKB Homes, Developer). Council District 5. SNI: None. CEQA: Mitigated Negative Declaration.

Reports, drawings, and documents for this project are on file and available for review, and a permit with recommendations will be available for your review during the week of the public hearing from **9:00 a.m. to 5:00 p.m.**, Monday, Wednesday, Fridays, and from **10:00 a.m. to 5:00 p.m.** Tuesday and Thursdays at:

Department of Planning, Building and Code Enforcement

801 North First Street, Room 400

San José, CA 95110

(408) 277-4576

www.ci.san-jose.ca.us/planning/sjplan/

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this meeting, please call (408) 277-4576 (Voice) at least 48 hours before the meeting.

** If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

Comments and questions are welcome and should be referred to the **Project Manager, Deanna Chow**, at the e-mail address: deanna.chow@sanjoseca.gov in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.



Joseph Horwedel,
Deputy Director, Plan Implementation Division

Dated: **October 07, 2004**

Lee Price, CMC
City Clerk

Noticing Radius: **500 ft**

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE ESTABLISHES A FORMAL PROTEST PROCEDURE FOR REZONINGS AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezonings, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.